



House of Representatives

General Assembly

File No. 461

January Session, 2017

Substitute House Bill No. 7229

House of Representatives, April 6, 2017

The Committee on Commerce reported through REP. SIMMONS of the 144th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

**AN ACT CONCERNING THE CREATION OF CONNECTICUT
BROWNFIELD LAND BANKS, REVISIONS TO THE BROWNFIELD
REMEDiation AND REVITALIZATION PROGRAM AND
AUTHORIZING BONDS OF THE STATE FOR BROWNFIELD
REMEDiation AND DEVELOPMENT PROGRAMS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 32-760 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2017*):

3 As used in this [section and sections 32-761 to 32-769, inclusive]
4 chapter and sections 2 to 6, inclusive, of this act:

5 (1) "Bona fide prospective purchaser" means a person who acquires
6 ownership of a property after July 1, 2011, and establishes by a
7 preponderance of the evidence that:

8 (A) All disposal of regulated substances at the property occurred
9 before such person acquired the property;

10 (B) Such person made all appropriate inquiries, as set forth in 40
11 CFR Part 312, into the previous ownership and uses of the property in
12 accordance with generally accepted good commercial and customary
13 standards and practices, including, but not limited to, the standards
14 and practices set forth in the ASTM Standard Practice for
15 Environmental Site Assessments, Phase I Environmental Site
16 Assessment Process, in effect on the date such person acquired the
17 property. In the case of property in residential or other similar use at
18 the time of purchase by a nongovernmental or noncommercial entity, a
19 property inspection and a title search that reveal no basis for further
20 investigation shall be considered to satisfy the requirements of this
21 subparagraph;

22 (C) Such person provides all legally required notices with respect to
23 the discovery or release of any regulated substances at the property;

24 (D) Such person exercises appropriate care with respect to regulated
25 substances found at the property by taking reasonable steps to (i) stop
26 any continuing release, (ii) prevent any threatened future release, and
27 (iii) prevent or limit human, environmental or natural resource
28 exposure to any previously released regulated substance;

29 (E) Such person provides full cooperation, assistance and access to
30 persons authorized to conduct response actions or natural resource
31 restoration at the property, including, but not limited to, the
32 cooperation and access necessary for the installation, integrity,
33 operation and maintenance of any complete or partial response actions
34 or natural resource restoration at the property;

35 (F) Such person complies with any land use restrictions established
36 or relied on in connection with the response action at the property and
37 does not impede the effectiveness or integrity of any institutional
38 control employed at the property in connection with a response action;
39 and

40 (G) Such person complies with any request for information from the
41 Commissioner of Energy and Environmental Protection;

42 (2) "Brownfield" means any abandoned or underutilized site where
43 redevelopment, reuse or expansion has not occurred due to the
44 presence or potential presence of pollution in the buildings, soil or
45 groundwater that requires investigation or remediation before or in
46 conjunction with the redevelopment, reuse or expansion of the
47 property;

48 (3) "Commissioner" means the Commissioner of Economic and
49 Community Development;

50 (4) "Contiguous property owner" means a person who owns real
51 property contiguous to or otherwise similarly situated with respect to,
52 and that is or may be contaminated by a release or threatened release
53 of a regulated substance from, real property that is not owned by that
54 person, provided:

55 (A) With respect to the property owned by such person, such person
56 takes reasonable steps to (i) stop any continuing release of any
57 regulated substance released on or from the property, (ii) prevent any
58 threatened future release of any regulated substance released on or
59 from the property, and (iii) prevent or limit human, environmental or
60 natural resource exposure to any regulated substance released on or
61 from the property;

62 (B) Such person provides full cooperation, assistance and access to
63 persons authorized to conduct response actions or natural resource
64 restoration at the property from which there has been a release or
65 threatened release, including, but not limited to, the cooperation and
66 access necessary for the installation, integrity, operation and
67 maintenance of any complete or partial response action or natural
68 resource restoration at the property;

69 (C) Such person complies with any land use restrictions established
70 or relied on in connection with the response action at the property and
71 does not impede the effectiveness or integrity of any institutional
72 control employed in connection with a response action;

73 (D) Such person complies with any request for information from the
74 Commissioner of Energy and Environmental Protection; and

75 (E) Such person provides all legally required notices with respect to
76 the discovery or release of any hazardous substances at the property;

77 (5) "Department" means the Department of Economic and
78 Community Development;

79 (6) "Economic development agency" means (A) a municipal
80 economic development agency or entity created or operating under
81 chapter 130 or 132; (B) a nonprofit economic development corporation
82 formed to promote the common good, general welfare and economic
83 development of a municipality or a region that is funded, either
84 directly or through in-kind services, in part by one or more
85 municipalities; (C) a nonstock corporation or limited liability company
86 established or controlled by a municipality, municipal economic
87 development agency or an entity created or operating under chapter
88 130 or 132; or (D) an agency, as defined in section 32-327;

89 (7) "Eligible costs" means the costs associated with the investigation,
90 assessment, remediation and development of a brownfield, including,
91 but not limited to, (A) soil, groundwater and infrastructure
92 investigation, (B) assessment, (C) remediation, (D) abatement, (E)
93 hazardous materials or waste disposal, (F) long-term groundwater or
94 natural attenuation monitoring, (G) (i) environmental land use
95 restrictions, (ii) activity and use limitations, or (iii) other forms of
96 institutional control, (H) attorneys' fees, (I) planning, engineering and
97 environmental consulting, and (J) building and structural issues,
98 including demolition, asbestos abatement, polychlorinated biphenyls
99 removal, contaminated wood or paint removal, and other
100 infrastructure remedial activities;

101 (8) "Financial assistance" means grants, loans or loan guarantees, or
102 any combination thereof;

103 (9) "Innocent landowner" has the same meaning as provided in

104 section 22a-452d;

105 (10) "Interim verification" has the same meaning as provided in
106 section 22a-134, as amended by this act;

107 (11) "Manufacturing facility" means a business establishment
108 classified under sector 31, 32 or 33 of the North American Industrial
109 Classification System;

110 (12) "Municipality" means a town, city, consolidated town and city
111 or consolidated town and borough. For purposes of sections 2 to 6,
112 inclusive, of this act, "municipality" includes a district, as defined in
113 section 7-324, a metropolitan area, as defined in section 7-333, and any
114 political subdivision of the state that has the power to levy taxes and to
115 issue bonds, notes or other obligations;

116 (13) "PCB regulations" means the polychlorinated biphenyls
117 manufacturing, processing, distribution in commerce and use
118 prohibitions found at 40 CFR Part 761;

119 (14) "Person" means any individual, firm, partnership, association,
120 syndicate, company, trust, corporation, nonstock corporation, limited
121 liability company, municipality, economic development agency,
122 agency or political or administrative subdivision of the state or any
123 other legal entity;

124 (15) "Real property" means land, buildings and other structures and
125 improvements thereto, subterranean or subsurface rights, any and all
126 easements, air rights and franchises of any kind or nature;

127 (16) "Regulated substance" has the same meaning as provided in
128 section 22a-134g;

129 (17) "Release" means any discharge, spillage, uncontrolled loss,
130 seepage, filtration, leakage, injection, escape, dumping, pumping,
131 pouring, emitting, emptying or disposal of a substance;

132 (18) "Remediation standards" has the same meaning as provided in

133 section 22a-134, as amended by this act;

134 (19) "State" means the state of Connecticut;

135 (20) "UST regulations" means the regulations adopted pursuant to
136 subsection (d) of section 22a-449; [and]

137 (21) "Verification" has the same meaning as provided in section 22a-
138 134, as amended by this act; and

139 (22) "Connecticut brownfield land bank" means a Connecticut
140 nonstock corporation, certified by the Commissioner of Economic and
141 Community Development pursuant to section 2 of this act, established
142 for the purposes of (A) acquiring, retaining, remediating and selling
143 brownfields in the state for the benefit of municipalities, (B) educating
144 government officials, community leaders, economic development
145 agencies and nonprofit organizations on best practices for
146 redeveloping brownfields, and (C) engaging in all other activities in
147 accordance with sections 2 to 6, inclusive, of this act.

148 Sec. 2. (NEW) (*Effective July 1, 2017*) (a) Any Connecticut nonstock
149 corporation may apply to the Commissioner of Economic and
150 Community Development for certification as a Connecticut brownfield
151 land bank by submitting to the commissioner, on forms provided by
152 the commissioner, an application containing such information as the
153 commissioner deems necessary, including, but not limited to:

154 (1) The certificate of incorporation and bylaws of the applicant;

155 (2) A list of the current officers and directors of the applicant;

156 (3) A proposed land banking agreement with one or more
157 municipalities;

158 (4) Information concerning the financial and technical capability of
159 the applicant to fulfill the purposes of a Connecticut brownfield land
160 bank, as described in section 4 of this act; and

161 (5) A proposed business plan for such land bank.

162 (b) The commissioner may approve or reject any application for
163 certification properly submitted in accordance with this section. In
164 reviewing an application and determining whether to approve such
165 application, the commissioner shall consider the following criteria:

166 (1) The financial and technical capabilities of the applicant to fulfill
167 the purposes of a Connecticut brownfield land bank, as described in
168 section 4 of this act;

169 (2) The relative economic condition of the municipalities the
170 applicant intends to serve;

171 (3) The level of support for such applicant from municipalities;

172 (4) The quality of the applicant's business plan; and

173 (5) Such other criteria consistent with the purposes of sections 2 to 6,
174 inclusive, of this act, as the commissioner may establish.

175 (c) If the commissioner approves an application for certification as a
176 Connecticut brownfield land bank, the commissioner shall issue a
177 Connecticut brownfield land bank certificate to the successful
178 applicant and such applicant shall be granted the rights, privileges and
179 immunities provided under sections 2 to 6, inclusive, of this act.

180 (d) Not later than January thirty-first, annually, each Connecticut
181 brownfield land bank shall report to the commissioner on its activities
182 for the preceding year and provide the commissioner any such
183 information as the commissioner deems necessary, including, but not
184 limited to: (1) An updated list of its current officers and directors; (2)
185 an updated business plan; (3) a complete operating and financial
186 statement; and (4) a copy of any land banking agreements entered into
187 during the preceding year.

188 (e) The commissioner shall review the annual report of each
189 Connecticut brownfield land bank and determine whether each land
190 bank is in compliance with the provisions of subsection (d) of this
191 section. If the commissioner determines that a Connecticut brownfield

192 land bank is not in compliance with such provisions, the commissioner
193 shall notify the officers of such land bank, in writing, that the
194 commissioner shall decertify the land bank after the one-hundred-
195 twentieth day after the date of mailing the notice unless such land
196 bank submits a revised annual report that the commissioner
197 determines is compliant with the provisions of subsection (d) of this
198 section. The commissioner, at his or her discretion, may grant a sixty-
199 day extension for such land bank to submit such revised annual report.

200 (f) Any Connecticut brownfield land bank that is decertified by the
201 commissioner shall not enter into any additional land banking
202 agreement. Decertification of a Connecticut brownfield land bank shall
203 not terminate the rights or obligations of such land bank under
204 sections 2 to 6, inclusive, of this act with respect to any property
205 acquired or land banking agreement entered into prior to the date of
206 decertification. Any Connecticut brownfield land bank that is
207 decertified by the commissioner may apply for re-certification under
208 subsection (a) of this section.

209 Sec. 3. (NEW) (*Effective July 1, 2017*) (a) The powers of a Connecticut
210 brownfield land bank shall be vested in and exercised by a board of
211 directors that shall consist of not less than five and not more than
212 eleven members, each with knowledge and expertise in matters related
213 to the purposes and activities of a Connecticut brownfield land bank,
214 as established in section 4 of this act. The board shall elect from its
215 members a chairperson and such other officers as it deems necessary
216 and shall adopt such bylaws and procedures it deems necessary to
217 carry out its functions. The board may establish committees and
218 subcommittees as necessary to conduct its business.

219 (b) Notwithstanding any provision of the general statutes, any
220 public officer shall be eligible to serve as a member of the board of
221 directors and the acceptance of the appointment shall neither
222 terminate nor impair such public office. For purposes of this section,
223 "public officer" means a person who is elected or appointed to any
224 state or municipal office. Any state or municipal employee shall be

225 eligible to serve as a board member.

226 (c) Members of the board of directors shall have the power to
227 organize and reorganize the executive, administrative, clerical and
228 other departments of a Connecticut brownfield land bank and to fix
229 the duties, powers and compensation of all employees, agents and
230 consultants of a Connecticut brownfield land bank.

231 (d) Board members shall serve without compensation, provided
232 each board member shall be entitled to reimbursement for such
233 member's actual and necessary expenses incurred during the
234 performance of such member's official duties.

235 (e) Members of the board of directors shall not be liable personally
236 on the loans or other obligations or environmental liabilities of the
237 Connecticut brownfield land bank, and the rights of creditors shall be
238 solely against such land bank.

239 Sec. 4. (NEW) (*Effective July 1, 2017*) (a) The purposes of a
240 Connecticut brownfield land bank shall be to (1) acquire, retain,
241 remediate and sell brownfields in the state on behalf of municipalities
242 pursuant to land banking agreements with such municipalities, (2)
243 educate government officials, community leaders, economic
244 development agencies and nonprofit organizations on best practices
245 for redeveloping brownfields, and (3) engage in all other activities in
246 accordance with sections 2 to 6, inclusive, of this act. In addition to
247 those powers, rights, privileges and immunities granted under chapter
248 602 of the general statutes, a Connecticut brownfield land bank is
249 authorized and empowered to do the following in furtherance of its
250 purposes:

251 (A) Enter into land banking agreements with municipalities for the
252 acquisition, retention, remediation and sale of real property within
253 such municipalities on behalf of such municipalities.

254 (B) Enter into contracts and agreements with municipalities for
255 staffing services to be provided to the Connecticut brownfield land

256 bank by such municipalities, or agencies or departments thereof, or for
257 a Connecticut brownfield land bank to provide such staffing services
258 to such municipalities, or agencies or departments thereof in relation
259 to the duties of such land bank.

260 (C) Obtain grant funds or borrow from private lenders,
261 municipalities, the state or the federal government, as may be
262 necessary, for the operation of such Connecticut brownfield land bank.

263 (D) Procure insurance or guarantees from the state or federal
264 government of the payments of any debts, or parts thereof, incurred by
265 such Connecticut brownfield land bank, and to pay premiums in
266 connection therewith.

267 (E) Do all other things necessary or convenient to achieve the
268 purposes of such Connecticut brownfield land bank and comply with
269 any law relating to the purposes and responsibilities of such land
270 bank.

271 (F) Acquire real property, as described in subsection (b) of section 6
272 of this act, by purchase contracts, lease purchase agreements,
273 installment sales contracts, land contracts and foreclosure of municipal
274 tax liens. A Connecticut brownfield land bank may accept transfers of
275 real property from municipalities upon such terms and conditions as
276 agreed to by the brownfield land bank and the municipality.
277 Notwithstanding any provision of the general statutes or of any special
278 act, municipal charter or home rule ordinance, any municipality may
279 transfer and convey to a Connecticut brownfield land bank real
280 property and interests in real property located in the municipality on
281 such terms and conditions and according to such procedures as
282 determined by the municipality.

283 (b) A Connecticut brownfield land bank shall neither possess nor
284 exercise the power of eminent domain.

285 Sec. 5. (NEW) (*Effective July 1, 2017*) The exercise of the powers
286 granted by sections 2 to 6, inclusive, of this act, shall be in all respects

287 for the benefit of the people of the state, for the increase of their
288 commerce, welfare and prosperity, and as the exercise of such powers
289 shall constitute the performance of an essential public function, a
290 Connecticut brownfield land bank shall not be required to pay any
291 taxes or assessments upon or in respect of any revenues or property
292 received, acquired, transferred or used by such Connecticut
293 brownfield land bank, or upon or in respect of the income from such
294 revenues or property.

295 Sec. 6. (NEW) (*Effective July 1, 2017*) (a) A Connecticut brownfield
296 land bank shall hold in its own name all real property acquired by
297 such land bank irrespective of the identity of the transferor of such
298 property.

299 (b) A Connecticut brownfield land bank shall acquire only
300 brownfield sites and other real property, located adjacent or in close
301 proximity to brownfield sites to be acquired, that are identified in a
302 land banking agreement between such Connecticut brownfield land
303 bank and the municipality in which such properties are located.

304 (c) A Connecticut brownfield land bank shall maintain and make
305 available for public review and inspection an inventory of all real
306 property held by such land bank.

307 (d) A Connecticut brownfield land bank shall determine and set
308 forth in policies and procedures the general terms and conditions for
309 consideration to be received by such land bank for the transfer to such
310 land bank of real property and interests in real property, which
311 consideration may take the form of monetary payments and secured
312 financial obligations, covenants and conditions related to the present
313 and future use of such real property, contractual commitments of the
314 transferee, and such other forms of consideration as determined by the
315 board of directors to be in the best interest of such land bank.

316 (e) A Connecticut brownfield land bank may convey, exchange, sell,
317 transfer, lease as lessee, grant, release and demise, pledge and
318 hypothecate any and all interests in, upon or to real property of the

319 brownfield land bank, provided such land bank may only convey,
320 exchange, transfer or sell real property with the approval of the
321 municipality in which such real property is located pursuant to the
322 terms of a land banking agreement entered into with such
323 municipality.

324 Sec. 7. Subsection (a) of section 12-81r of the general statutes is
325 repealed and the following is substituted in lieu thereof (*Effective July*
326 *1, 2017*):

327 (a) Any municipality may (1) enter into an agreement with the
328 owner of any real property to abate the property tax due as of the date
329 of the agreement for a period not to exceed seven years if the property
330 has been subject to a spill, as defined in section 22a-452c, and the
331 owner agrees to conduct any environmental site assessment,
332 demolition and remediation of the spill necessary to redevelop the
333 property. Any such tax abatement shall only be for the period of
334 remediation and redevelopment and shall be contingent upon the
335 continuation and completion of the remediation and redevelopment
336 process with respect to the purposes specified in the agreement. The
337 abatement shall cease upon the sale or transfer of the property for any
338 other purpose unless the municipality consents to its continuation. The
339 municipality may also establish a recapture provision in the event of
340 sale provided such recapture shall not exceed the original amount of
341 taxes abated and may not go back further than the date of the
342 agreement; (2) forgive all or a portion of the principal balance and
343 interest due on delinquent property taxes for the benefit of any
344 prospective purchaser who has obtained an environmental
345 investigation or remediation plan approved by the Commissioner of
346 Energy and Environmental Protection or a licensed environmental
347 professional under section 22a-133w, 22a-133x or 22a-133y and
348 completes such remediation plan for an establishment, as defined in
349 section 22a-134, as amended by this act, deemed by the municipality to
350 be abandoned or a brownfield, as defined in section 32-760, as
351 amended by this act; [or] (3) enter into an agreement with the owner of
352 any real property to fix the assessment of the property as of the last

353 assessment date prior to commencement of remediation activities for a
354 period not to exceed seven years, provided the property has been the
355 subject of a remediation approved by the Commissioner of Energy and
356 Environmental Protection or verified by a licensed environmental
357 professional pursuant to section 22a-133w, 22a-133x, 22a-133y or 22a-
358 134, as amended by this act; or (4) forgive all or a portion of the
359 principal balance and interest due on delinquent property taxes for the
360 benefit of any Connecticut brownfield land bank, as defined in section
361 32-760, as amended by this act, that has acquired or will acquire any
362 real property within the municipality.

363 Sec. 8. Section 22a-133dd of the general statutes is repealed and the
364 following is substituted in lieu thereof (*Effective July 1, 2017*):

365 (a) Any municipality or any licensed environmental professional
366 employed or retained by a municipality may enter, without liability
367 upon any property within such municipality for the purpose of
368 performing an environmental site assessment or investigation on
369 behalf of the municipality if: (1) The owner of such property cannot be
370 located; (2) such property is encumbered by a lien for taxes due such
371 municipality; (3) upon a filing of a notice of eminent domain; (4) the
372 municipality's legislative body finds that such investigation is in the
373 public interest to determine if the property is underutilized or should
374 be included in any undertaking of development, redevelopment or
375 remediation pursuant to this chapter or chapter 130, 132 or 581; or (5)
376 any official of the municipality reasonably finds such investigation
377 necessary to determine if such property presents a risk to the safety,
378 health or welfare of the public or a risk to the environment. A
379 Connecticut brownfield land bank or any licensed environmental
380 professional employed or retained by such Connecticut brownfield
381 land bank may enter, without liability, upon any property subject to a
382 land banking agreement between such Connecticut brownfield land
383 bank and the municipality in which such property is located for the
384 purpose of performing an environmental site assessment or
385 investigation on behalf of such Connecticut brownfield land bank if:
386 (A) Such environmental site assessment or investigation is required

387 under a land banking agreement between such municipality and such
388 Connecticut brownfield land bank, and such municipality is otherwise
389 authorized under this subsection to enter such property without
390 liability, or (B) the property owner has entered into a voluntary
391 agreement with such municipality or such land bank for the
392 performance of an environmental site assessment or investigation. The
393 municipality or, if applicable, the Connecticut brownfield land bank
394 shall give at least forty-five days' notice of such entry before the first
395 such entry by certified mail to the property owner's last known
396 address of record.

397 (b) A municipality or Connecticut brownfield land bank accessing
398 or entering a property to perform an investigation pursuant to this
399 section shall not be liable for preexisting conditions pursuant to section
400 22a-432, 22a-433, 22a-451 or 22a-452, or to the property owner or any
401 third party, provided the municipality or Connecticut brownfield land
402 bank (1) did not establish, cause or contribute to the discharge,
403 spillage, uncontrolled loss, seepage or filtration of such hazardous
404 substance, material, waste or pollution; (2) does not negligently or
405 recklessly exacerbate the conditions; and (3) complies with reporting of
406 significant environmental hazard requirements pursuant to section
407 22a-6u. To the extent that any conditions are negligently or recklessly
408 exacerbated, the municipality or Connecticut brownfield land bank
409 shall only be responsible for responding to contamination exacerbated
410 by its activities.

411 (c) The owner of the property may object to such access and entry
412 by the municipality or Connecticut brownfield land bank by filing an
413 action in the Superior Court not later than thirty days after receipt of
414 the notice provided pursuant to subsection (a) of this section, provided
415 any objection be limited to the issue of whether access is necessary and
416 only upon proof by the owner that the owner has (1) completed or is in
417 the process of completing in a timely manner a comprehensive
418 environmental site assessment or investigation report; (2) provided the
419 party seeking access with a copy of the assessment or report or will do
420 so not later than thirty days after the delivery of such assessment or

421 report to the owner; and (3) paid any delinquent property taxes
422 assessed against the property for which access is being sought.

423 (d) For purposes of this section, (1) "municipality" includes any (A)
424 municipality, (B) municipal economic development agency or entity
425 created or operating under chapter 130 or 132, (C) nonprofit economic
426 development corporation formed to promote the common good,
427 general welfare and economic development of a municipality that is
428 funded, either directly or through in-kind services, in part by a
429 municipality, or (D) nonstock corporation or limited liability company
430 established and controlled by a municipality, municipal economic
431 development agency or entity created or operating under chapter 130
432 or 132; and (2) "Connecticut brownfield land bank" has the same
433 meaning as provided in section 32-760, as amended by this act.

434 Sec. 9. Subsection (a) of section 22a-133ii of the general statutes is
435 repealed and the following is substituted in lieu thereof (*Effective July*
436 *1, 2017*):

437 (a) For the purposes of this section:

438 (1) "Applicant" means any (A) municipality, (B) economic
439 development agency or entity established pursuant to chapter 130 or
440 132, (C) nonprofit economic development corporation formed to
441 promote the common good, general welfare and economic
442 development of a municipality and that is funded, either directly or
443 through in-kind services, in part by a municipality, [or] (D) a nonstock
444 corporation or limited liability company controlled or established by a
445 municipality, municipal economic development agency or entity
446 created or operating pursuant to chapter 130 or 132, or (E) Connecticut
447 brownfield land bank, as defined in section 32-760, as amended by this
448 act;

449 (2) "Municipality" has the same meaning as provided in section 8-
450 187;

451 (3) "Brownfield" has the same meaning as provided in section 32-

452 760, as amended by this act;

453 (4) "Commissioner" means the Commissioner of Energy and
454 Environmental Protection;

455 (5) "Regulated substance" means any oil or petroleum or chemical
456 liquid or solid, liquid or gaseous product or hazardous waste; and

457 (6) "Person" has the same meaning as provided in section 22a-2, as
458 amended by this act.

459 Sec. 10. Subdivision (1) of section 22a-134 of the general statutes is
460 repealed and the following is substituted in lieu thereof (*Effective July*
461 *1, 2017*):

462 (1) "Transfer of establishment" means any transaction or proceeding
463 through which an establishment undergoes a change in ownership, but
464 does not mean:

465 (A) Conveyance or extinguishment of an easement;

466 (B) Conveyance of an establishment through a foreclosure, as
467 defined in subsection (b) of section 22a-452f, foreclosure of a municipal
468 tax lien or through a tax warrant sale pursuant to section 12-157, an
469 exercise of eminent domain by a municipality or pursuant to section 8-
470 128, 8-169e or 8-193 or by condemnation pursuant to section 32-224 or
471 purchase pursuant to a resolution by the legislative body of a
472 municipality authorizing the acquisition through eminent domain for
473 establishments that also meet the definition of a brownfield, as defined
474 in section 32-760, as amended by this act, or a subsequent transfer by
475 such municipality that has foreclosed on the property, foreclosed
476 municipal tax liens or that has acquired title to the property through
477 section 12-157, or is within the pilot program established in subsection
478 (c) of section 32-9cc of the general statutes, revision of 1958, revised to
479 January 1, 2013, or the remedial action and redevelopment municipal
480 grant program established in section 32-763, as amended by this act, or
481 has acquired such property through the exercise of eminent domain by
482 a municipality or pursuant to section 8-128, 8-169e or 8-193 or by

483 condemnation pursuant to section 32-224 or a resolution adopted in
484 accordance with this subparagraph, provided (i) the party acquiring
485 the property from the municipality did not establish, create or
486 contribute to the contamination at the establishment and is not
487 affiliated with any person who established, created or contributed to
488 such contamination or with any person who is or was an owner or
489 certifying party for the establishment, and (ii) on or before the date the
490 party acquires the property from the municipality, such party or
491 municipality enters and subsequently remains in the voluntary
492 remediation program administered by the commissioner pursuant to
493 section 22a-133x and remains in compliance with schedules and
494 approvals issued by the commissioner. For purposes of this
495 subparagraph, subsequent transfer by a municipality includes any
496 transfer to, from or between a municipality, municipal economic
497 development agency or entity created or operating under chapter 130
498 or 132, a nonprofit economic development corporation formed to
499 promote the common good, general welfare and economic
500 development of a municipality that is funded, either directly or
501 through in-kind services, in part by a municipality, [or] a nonstock
502 corporation or limited liability company controlled or established by a
503 municipality, municipal economic development agency or entity
504 created or operating under chapter 130 or 132, or a Connecticut
505 brownfield land bank;

506 (C) Conveyance of a deed in lieu of foreclosure to a lender, as
507 defined in and that qualifies for the secured lender exemption
508 pursuant to subsection (b) of section 22a-452f;

509 (D) Conveyance of a security interest, as defined in subdivision (7)
510 of subsection (b) of section 22a-452f;

511 (E) Termination of a lease and conveyance, assignment or execution
512 of a lease for a period less than ninety-nine years including
513 conveyance, assignment or execution of a lease with options or similar
514 terms that will extend the period of the leasehold to ninety-nine years,
515 or from the commencement of the leasehold, ninety-nine years,

516 including conveyance, assignment or execution of a lease with options
517 or similar terms that will extend the period of the leasehold to ninety-
518 nine years, or from the commencement of the leasehold;

519 (F) Any change in ownership approved by the Probate Court;

520 (G) Devolution of title to a surviving joint tenant, or to a trustee,
521 executor or administrator under the terms of a testamentary trust or
522 will, or by intestate succession;

523 (H) Corporate reorganization not substantially affecting the
524 ownership of the establishment;

525 (I) The issuance of stock or other securities of an entity which owns
526 or operates an establishment;

527 (J) The transfer of stock, securities or other ownership interests
528 representing less than forty per cent of the ownership of the entity that
529 owns or operates the establishment;

530 (K) Any conveyance of an interest in an establishment where the
531 transferor is the sibling, spouse, child, parent, grandparent, child of a
532 sibling or sibling of a parent of the transferee;

533 (L) Conveyance of an interest in an establishment to a trustee of an
534 inter vivos trust created by the transferor solely for the benefit of one
535 or more siblings, spouses, children, parents, grandchildren, children of
536 a sibling or siblings of a parent of the transferor;

537 (M) Any conveyance of a portion of a parcel upon which portion no
538 establishment is or has been located and upon which there has not
539 occurred a discharge, spillage, uncontrolled loss, seepage or filtration
540 of hazardous waste, provided either the area of such portion is not
541 greater than fifty per cent of the area of such parcel or written notice of
542 such proposed conveyance and an environmental condition
543 assessment form for such parcel is provided to the commissioner sixty
544 days prior to such conveyance;

545 (N) Conveyance of a service station, as defined in subdivision (5) of
546 this section;

547 (O) Any conveyance of an establishment which, prior to July 1, 1997,
548 had been developed solely for residential use and such use has not
549 changed;

550 (P) Any conveyance of an establishment to any entity created or
551 operating under chapter 130 or 132, or to an urban rehabilitation
552 agency, as defined in section 8-292, or to a municipality under section
553 32-224, or to Connecticut Innovations, Incorporated or any subsidiary
554 of the corporation;

555 (Q) Any conveyance of a parcel in connection with the acquisition of
556 properties to effectuate the development of the overall project, as
557 defined in section 32-651;

558 (R) The conversion of a general or limited partnership to a limited
559 liability company;

560 (S) The transfer of general partnership property held in the names of
561 all of its general partners to a general partnership which includes as
562 general partners immediately after the transfer all of the same persons
563 as were general partners immediately prior to the transfer;

564 (T) The transfer of general partnership property held in the names
565 of all of its general partners to a limited liability company which
566 includes as members immediately after the transfer all of the same
567 persons as were general partners immediately prior to the transfer;

568 (U) Acquisition of an establishment by any governmental or quasi-
569 governmental condemning authority;

570 (V) Conveyance of any real property or business operation that
571 would qualify as an establishment solely as a result of (i) the
572 generation of more than one hundred kilograms of universal waste in
573 a calendar month, (ii) the storage, handling or transportation of
574 universal waste generated at a different location, or (iii) activities

575 undertaken at a universal waste transfer facility, provided any such
576 real property or business operation does not otherwise qualify as an
577 establishment; there has been no discharge, spillage, uncontrolled loss,
578 seepage or filtration of a universal waste or a constituent of universal
579 waste that is a hazardous substance at or from such real property or
580 business operation; and universal waste is not also recycled, treated,
581 except for treatment of a universal waste pursuant to 40 CFR
582 273.13(a)(2) or (c)(2) or 40 CFR 273.33 (a)(2) or (c)(2), or disposed of at
583 such real property or business operation;

584 (W) Conveyance of a unit in a residential common interest
585 community in accordance with section 22a-134i;

586 (X) Acquisition of an establishment that is in the abandoned
587 brownfield cleanup program established pursuant to section 32-768, as
588 amended by this act, and all subsequent transfers of the establishment,
589 provided the establishment is undergoing remediation or is
590 remediated in accordance with subsection (f) of section 32-768;

591 (Y) Any transfer of title from a bankruptcy court or a municipality
592 to a nonprofit organization;

593 (Z) Acquisition of an establishment that is in the brownfield
594 remediation and revitalization program and all subsequent transfers of
595 the establishment, provided the establishment is in compliance with
596 the brownfield investigation plan and remediation schedule, the
597 commissioner has issued a no audit letter or successful audit closure
598 letter in response to a verification or interim verification submitted
599 regarding the remediation of such establishment under the brownfield
600 remediation and revitalization program, or a one-hundred-eighty-day
601 period has expired since a verification or interim verification
602 submitted regarding the remediation of such establishment under the
603 brownfield remediation and revitalization program without an audit
604 decision from the Commissioner of Energy and Environmental
605 Protection;

606 (AA) Conveyance of an establishment in connection with the

607 acquisition of properties to effectuate the development of a project
608 certified and approved pursuant to section 32-9v, provided any such
609 property is investigated and remediated in accordance with section
610 22a-133y; [or]

611 (BB) Conveyance from the Department of Transportation to the
612 Connecticut Airport Authority of any properties comprising (i)
613 Bradley International Airport and all related improvements and
614 facilities now in existence and as hereafter acquired, added, extended,
615 improved and equipped, including any property or facilities
616 purchased with funds of, or revenues derived from, Bradley
617 International Airport, and any other property or facilities allocated by
618 the state, the Connecticut Airport Authority or otherwise to Bradley
619 International Airport, (ii) the state-owned and operated general
620 aviation airports, including Danielson Airport, Groton/New London
621 Airport, Hartford Brainard Airport, Waterbury-Oxford Airport and
622 Windham Airport and any such other airport as may be owned,
623 operated or managed by the Connecticut Airport Authority and
624 designated as general aviation airports, (iii) any other airport as may
625 be owned, operated or managed by the Connecticut Airport Authority,
626 and (iv) any airport site or any part thereof, including, but not limited
627 to, any restricted landing areas and any air navigation facilities; or

628 (CC) Conveyance of an establishment to a Connecticut brownfield
629 land bank and all subsequent transfers of such establishment,
630 provided (i) such establishment was entered into a remediation or
631 liability relief program under section 22a-133x, 22a-133y, 32-768, as
632 amended by this act, or 32-769, as amended by this act, and the
633 conveyor or transferor of such establishment is in compliance with
634 such program at the time of transfer of such establishment, and (ii)
635 none of the activities described in subdivision (3) of this section were
636 conducted at such establishment after the date such establishment was
637 entered into such remediation or liability relief program;

638 Sec. 11. Section 22a-134 of the general statutes is amended by adding
639 subdivision (29) as follows (*Effective July 1, 2017*):

640 (NEW) (29) "Connecticut brownfield land bank" has the same
641 meaning as provided in section 32-760, as amended by this act.

642 Sec. 12. Section 32-763 of the general statutes is repealed and the
643 following is substituted in lieu thereof (*Effective July 1, 2017*):

644 (a) There is established a remedial action and redevelopment
645 municipal grant program to be administered by the Department of
646 Economic and Community Development for the purpose of providing
647 grants to municipalities, Connecticut brownfield land banks and
648 economic development agencies for the eligible costs of brownfield
649 remediation projects, brownfield assessment projects and reasonable
650 administrative expenses not to exceed five per cent of any grant
651 awarded. A grant awarded under this section shall not exceed four
652 million dollars.

653 (b) A grant applicant shall submit an application to the
654 Commissioner of Economic and Community Development on forms
655 provided by the commissioner and with such information the
656 commissioner deems necessary, including, but not limited to: (1) A
657 description of the proposed project; (2) an explanation of the expected
658 benefits of the project in relation to the purposes of this section; (3)
659 information concerning the financial and technical capacity of the
660 applicant to undertake the proposed project; (4) a project budget; and
661 (5) with respect to a brownfield remediation project, a description of
662 the condition of the brownfield, including the results of any
663 environmental assessment of the brownfield in the possession of or
664 available to the applicant.

665 (c) The commissioner may approve, reject or modify any application
666 properly submitted in accordance with the provisions of this section.
667 In reviewing an application and determining the amount of the grant,
668 if any, to be provided, the commissioner shall consider the following
669 criteria: (1) The availability of funds; (2) the estimated costs of
670 assessing and remediating the brownfield, if known; (3) the relative
671 economic condition of the municipality in which the brownfield is
672 located; (4) the relative need of the project for financial assistance; (5)

673 the degree to which a grant under this section is necessary to induce
674 the applicant to undertake the project; (6) the public health and
675 environmental benefits of the project; (7) the relative benefits of the
676 project to the municipality, the region and the state, including, but not
677 limited to, the extent to which the project will likely result in a
678 contribution to the municipality's tax base, the retention and creation
679 of jobs and the reduction of blight; (8) the time frame in which the
680 contamination occurred; (9) the relationship of the applicant to the
681 person or entity that caused the contamination; (10) the length of time
682 the brownfield has been abandoned; (11) the taxes owed and the
683 projected revenues that may be restored to the community; (12) the
684 relative need for assessment of the brownfield within the municipality
685 or region; and (13) such other criteria as the commissioner may
686 establish consistent with the purposes of this section.

687 (d) The commissioner shall award grants on a competitive basis,
688 based on a request for applications occurring on or before October
689 first, annually. The commissioner may increase the frequency of
690 requests for applications and awards depending upon the number of
691 applicants and the availability of funding.

692 (e) The commissioner, in consultation with the Commissioner of
693 Energy and Environmental Protection and following the award of a
694 grant to a municipality, Connecticut brownfield land bank or economic
695 development agency pursuant to subsections (c) and (d) of this section,
696 may award an additional grant to such municipality, Connecticut
697 brownfield land bank or economic development agency to enable the
698 completion of a brownfield remediation or assessment project,
699 provided such project is identified as a priority by said commissioners
700 and such additional grant funds (1) will be used to address unexpected
701 cost overruns or costs related to remedial activities that will provide a
702 greater environmental benefit than originally proposed pursuant to
703 subsection (b) of this section, (2) do not exceed fifty per cent of the
704 original grant, and (3) will not result in more than four million dollars
705 in total grants being awarded for a single brownfield remediation or
706 assessment project.

707 (f) The commissioner may award grants to any municipality,
708 Connecticut brownfield land bank, economic development agency or
709 regional council of governments organized under sections 4-124i to 4-
710 124p, inclusive, for the eligible costs of developing a comprehensive
711 plan for the remediation and redevelopment of multiple brownfields
712 whenever such plan is consistent with the state plan of conservation
713 and development, adopted pursuant to chapter 297, and the plan of
714 conservation and development, adopted pursuant to section 8-23, for
715 each municipality in which such brownfields are located. For purposes
716 of this subsection, "eligible costs" shall also include expenditures
717 associated with the development of any such plan for remediation and
718 redevelopment.

719 (g) The provisions of sections 32-5a and 32-701 shall not apply to
720 grants provided pursuant to this section.

721 Sec. 13. Subsections (c) and (d) of section 32-768 of the general
722 statutes are repealed and the following is substituted in lieu thereof
723 (*Effective July 1, 2017*):

724 (c) Notwithstanding the provisions of subsection (b) of this section,
725 a property owned by a municipality, a Connecticut brownfield land
726 bank or an economic development agency shall not be subject to
727 subdivision (6) of subsection (b) of this section.

728 (d) Notwithstanding the provisions of subsection (b) of this section,
729 a municipality or a Connecticut brownfield land bank may request the
730 Commissioner of Economic and Community Development to
731 determine if a property is eligible regardless of the person who
732 currently owns such property.

733 Sec. 14. Section 32-769 of the general statutes is repealed and the
734 following is substituted in lieu thereof (*Effective July 1, 2017*):

735 (a) The commissioner shall, within available appropriations,
736 establish a brownfield remediation and revitalization program to
737 provide certain liability protections to program participants. Not more

738 than thirty-two properties per year shall be accepted into the program.
739 Participation in the program shall be by accepted application pursuant
740 to this subsection or by approved nomination pursuant to subsection
741 (c) of this section. To be considered for acceptance, an applicant shall
742 submit to the commissioner, on a form prescribed by the
743 commissioner, a certification that: (1) The applicant meets the
744 definition of a bona fide prospective purchaser, innocent landowner or
745 contiguous property owner; (2) the property meets the definition of a
746 brownfield and has been subject to a release of a regulated substance
747 in an amount that is in excess of the remediation standards; (3) the
748 applicant did not establish, create or maintain a source of pollution to
749 the waters of the state for purposes of section 22a-432 and is not
750 responsible pursuant to any other provision of the general statutes for
751 any pollution or source of pollution on the property; (4) the applicant
752 is not affiliated with any person responsible for such pollution or
753 source of pollution through any direct or indirect familial relationship
754 or any contractual, corporate or financial relationship other than that
755 by which such purchaser's interest in such property is to be conveyed
756 or financed; and (5) the property is not (A) currently the subject of an
757 enforcement action, including any consent order issued by the
758 Department of Energy and Environmental Protection or the United
759 States Environmental Protection Agency under any current
760 Department of Energy and Environmental Protection or United States
761 Environmental Protection Agency program, (B) listed on the national
762 priorities list of hazardous waste disposal sites compiled by the United
763 States Environmental Protection Agency pursuant to 42 USC 9605, (C)
764 listed on the State of Connecticut Superfund Priority List, or (D)
765 subject to corrective action as may be required by the federal Resource
766 Conservation and Recovery Act of 1976, 42 USC 6901 et seq. The
767 commissioner may review such certifications to ensure accuracy, in
768 consultation with the Commissioner of Energy and Environmental
769 Protection, and applications will not be considered if such
770 certifications are found inaccurate.

771 (b) To ensure a geographic distribution and a diversity of projects
772 and broad access to the brownfield remediation and revitalization

773 program, the commissioner, in consultation with the Commissioner of
774 Energy and Environmental Protection, shall review all applications
775 received and determine admission of eligible properties into the
776 brownfield remediation and revitalization program taking into
777 consideration state-wide portfolio factors including: (1) Job creation
778 and retention; (2) sustainability; (3) readiness to proceed; (4)
779 geographic distribution of projects; (5) population of the municipality
780 where the property is located; (6) project size; (7) project complexity;
781 (8) duration and degree to which the property has been underused; (9)
782 projected increase to the municipal grand list; (10) consistency of the
783 property as remediated and developed with municipal or regional
784 planning objectives; (11) development plan's support for and
785 furtherance of principles of smart growth, as defined in section 1 of
786 public act 09-230, or transit-oriented development, as defined in
787 section 13b-79o; and (12) other factors as may be determined by the
788 commissioner. Admittance into the brownfield remediation and
789 revitalization program shall not indicate approval or award of funding
790 requested under any federal, state or municipal grant or loan program,
791 including, but not limited to, any state brownfield grant or loan
792 program.

793 (c) The commissioner shall accept nominations of properties for
794 participation in the program established pursuant to subsection (a) of
795 this section by a municipality or an economic development agency,
796 where no bona fide prospective purchaser, contiguous property owner
797 or innocent landowner has applied for participation in the program.
798 For a property to be considered for approval for nomination to the
799 program established pursuant to this section, a municipality shall
800 submit to the commissioner, on a form prescribed by the
801 commissioner, a certification that the property meets the eligibility
802 requirements provided in subdivisions (2) and (5) of subsection (a) of
803 this section and any other relevant factors, including state-wide
804 portfolio factors provided in subsection (b) of this section, as may be
805 determined by the commissioner. After the commissioner approves a
806 property's nomination, any subsequent applicant shall apply in
807 accordance with subsections (a) and (f) of this section. In any such

808 application, the applicant shall demonstrate it satisfies the eligibility
809 requirements provided in subdivisions (1), (3) and (4) of subsection (a)
810 of this section and shall demonstrate satisfaction of subdivisions (2)
811 and (5) of subsection (a) of this section for the period after the
812 commissioner's acceptance of the municipality's or economic
813 development agency's nomination of the property.

814 (d) (1) Properties otherwise eligible for the brownfield remediation
815 and revitalization program currently being investigated and
816 remediated in accordance with the state voluntary remediation
817 programs under sections 22a-133x and 22a-133y, the property transfer
818 program under section 22a-134, as amended by this act, and the
819 covenant not to sue programs under section 22a-133aa or 22a-133bb
820 shall not be excluded from eligibility in said program, provided the
821 other requirements set forth in this section are met.

822 (2) Properties otherwise eligible for the brownfield remediation and
823 revitalization program that have been subject to a release requiring
824 action pursuant to the PCB regulations or that have been subject to a
825 release requiring action pursuant to the UST regulations shall not be
826 deemed ineligible, but no provision of this section shall affect any
827 eligible party's obligation under such regulations to investigate or
828 remediate the extent of any such release.

829 (e) Inclusion of a property within the brownfield remediation and
830 revitalization program by the commissioner shall not limit any
831 person's ability to seek funding for such property under any federal,
832 state or municipal grant or loan program, including, but not limited to,
833 any state brownfield grant or loan program. Admittance into the
834 brownfield remediation and revitalization program shall not indicate
835 approval or award of funding requested under any federal, state or
836 municipal grant or loan program, including, but not limited to, any
837 state brownfield grant or loan program.

838 (f) Any applicant seeking a designation of eligibility for a person or
839 a property under the brownfield remediation and revitalization
840 program shall apply to the commissioner at such times and on such

841 forms as the commissioner may prescribe. The application shall
842 include, but not be limited to, (1) a title search, (2) the Phase I
843 Environmental Site Assessment conducted by or for the bona fide
844 prospective purchaser or the contiguous property owner, which shall
845 be prepared in accordance with prevailing standards and guidelines,
846 (3) a current property inspection, if requested by the commissioner, (4)
847 documentation demonstrating satisfaction of the eligibility criteria set
848 forth in subsection (a) of this section, (5) information about the project
849 that relates to the state-wide portfolio factors set forth in subsection (b)
850 of this section, and (6) such other information as the commissioner
851 may request to determine admission.

852 (g) Any applicant accepted into the brownfield remediation and
853 revitalization program by the commissioner shall pay the
854 Commissioner of Energy and Environmental Protection a fee equal to
855 five per cent of the assessed value of the land, as stated on the last-
856 completed grand list of the relevant town. The fee shall be paid in two
857 installments, each equal to fifty per cent of such fee, subject to potential
858 reductions as specified in subsection (h) of this section. The first
859 installment shall be due not later than one hundred eighty days after
860 the later of the date such applicant is notified that the application has
861 been accepted by the commissioner or the date that such applicant
862 takes title to the eligible property. The second installment shall be due
863 not later than four years after the acceptance date. Upon request by
864 such applicant, a municipality or an economic development agency,
865 the commissioner may, at the commissioner's discretion, extend either
866 or both of the installment due dates. Such fee shall be deposited into
867 the Special Contaminated Property Remediation and Insurance Fund
868 established pursuant to section 22a-133t and shall be available for use
869 by the Commissioner of Energy and Environmental Protection
870 pursuant to section 22a-133u.

871 (h) (1) The first installment of the fee in subsection (g) of this section
872 shall be reduced by ten per cent for any eligible party that completes
873 and submits to the Commissioner of Energy and Environmental
874 Protection documentation, approved in writing by a licensed

875 environmental professional and on a form prescribed by said
876 commissioner, that the investigation of the property has been
877 completed in accordance with prevailing standards and guidelines
878 within one hundred eighty days after the date the application is
879 accepted by the commissioner.

880 (2) The second installment of the fee in subsection (g) of this section
881 shall be eliminated for any eligible party that submits the remedial
882 action report and verification or interim verification to the
883 Commissioner of Energy and Environmental Protection within four
884 years after the date the application is accepted by the commissioner. In
885 the event an eligible party submits a request for the Commissioner of
886 Energy and Environmental Protection's approval, where such approval
887 is required pursuant to the remediation standard and where said
888 commissioner issues a decision on such request beyond sixty days
889 after submittal, such four-year period shall be extended by the number
890 of days equal to the number of days between the sixtieth day and the
891 date a decision is issued by said commissioner, but not including the
892 number of days that a request by said commissioner for supplemental
893 information remains pending with the eligible party.

894 (3) The second installment of the fee in subsection (g) of this section
895 shall be reduced by, or any eligible party shall receive a refund in the
896 amount equal to, twice the reasonable environmental service costs of
897 such investigation, as determined by the Commissioner of Energy and
898 Environmental Protection, for any eligible party that completes and
899 submits to the Commissioner of Energy and Environmental Protection
900 documentation, approved in writing by a licensed environmental
901 professional and on a form that may be prescribed by said
902 commissioner, that the investigation of the nature and extent of any
903 contamination that has migrated from the property has been
904 completed in accordance with prevailing standards and guidelines.
905 Such refund shall not exceed the amount of the second installment of
906 the fee in subsection (g) of this section.

907 (4) No municipality or economic development agency seeking

908 designation of eligibility shall be required to pay a fee, provided, upon
909 transfer of the eligible property from the municipality or economic
910 development agency to an eligible person, that eligible person shall
911 pay to the Commissioner of Energy and Environmental Protection the
912 fee in subsection (g) of this section in accordance with the applicable
913 requirements in this subsection.

914 (5) A municipality or economic development agency may submit a
915 fee waiver request to the commissioner to waive a portion or the entire
916 fee for an eligible property located within that municipality. The
917 commissioner, at his or her discretion, shall consider the following
918 factors in determining whether to approve a fee waiver or reduction:
919 (A) Location of the brownfield within a distressed municipality, as
920 defined in section 32-9p; (B) demonstration by the municipality or
921 economic development agency that the project is of significant
922 economic impact; (C) demonstration by the municipality or economic
923 development agency that the project has a significant community
924 benefit to the municipality; (D) demonstration that the eligible party is
925 a governmental or nonprofit entity; and (E) demonstration that the fee
926 required will have a detrimental effect on the overall success of the
927 project.

928 (i) (1) An applicant whose application has been accepted into the
929 brownfield remediation and revitalization program shall not be liable
930 to the state or any person for the release of any regulated substance at
931 or from the eligible property, except and only to the extent that such
932 applicant (A) caused or contributed to the release of a regulated
933 substance that is subject to remediation or exacerbated such condition,
934 or (B) the Commissioner of Energy and Environmental Protection
935 determines the existence of any of the conditions set forth in
936 subdivision (4) of subsection (m) of this section.

937 (2) If such applicant conveys or, prior to July 1, 2017, conveyed a
938 security interest, as defined in section 22a-452f, in the eligible property
939 to a lender, as defined in section 22a-452f, and such lender (A) did not
940 establish, create or maintain a source of pollution to the waters of the

941 state for purposes of section 22a-432, (B) is not responsible pursuant to
942 any other provision of the general statutes for any pollution or source
943 of pollution on the eligible property, and (C) is not affiliated with any
944 person responsible for such pollution or source of pollution through
945 any direct or indirect familial relationship or any contractual, corporate
946 or financial relationship other than that creating the security interest in
947 the eligible property, such lender shall not be liable to the state or any
948 person for the release of any regulated substance at or from the eligible
949 property.

950 (j) (1) An applicant whose application to the brownfield remediation
951 and revitalization program has been accepted by the commissioner (A)
952 shall investigate the release or threatened release of any regulated
953 substance within the boundaries of the property in accordance with
954 prevailing standards and guidelines and remediate such release or
955 threatened release within the boundaries of such property in
956 accordance with the brownfield investigation plan and remediation
957 schedule and this section, and (B) shall not be required to characterize,
958 abate and remediate the release of a regulated substance beyond the
959 boundary of the eligible property, except for releases caused or
960 contributed to by such applicant.

961 (2) Not later than one hundred eighty days after the first installment
962 due date, including any extension thereof by the commissioner, of the
963 fee required pursuant to subsection (g) of this section, the eligible party
964 shall submit to the commissioner and the Commissioner of Energy and
965 Environmental Protection a brownfield investigation plan and
966 remediation schedule that is signed and stamped by a licensed
967 environmental professional. Unless otherwise approved in writing by
968 the Commissioner of Energy and Environmental Protection, such
969 brownfield investigation plan and remediation schedule shall provide
970 that (A) the investigation shall be completed not later than two years
971 after the first installment due date, including any extension thereof by
972 the commissioner, of the fee required pursuant to subsection (g) of this
973 section, (B) remediation shall be initiated not later than three years
974 from the first installment due date, including any extension thereof by

975 the commissioner, of the fee required pursuant to subsection (g) of this
976 section, and (C) remediation shall be completed sufficiently to support
977 either a verification or interim verification not later than eight years
978 after the first installment due date, including any extension thereof by
979 the commissioner, of the fee required pursuant to subsection (g) of this
980 section. The schedule shall also include a schedule for providing public
981 notice of the remediation prior to the initiation of such remediation in
982 accordance with subdivision (1) of subsection (j) of this section. Not
983 later than two years after the first installment due date, including any
984 extension thereof by the commissioner, of the fee required pursuant to
985 subsection (g) of this section, unless the Commissioner of Energy and
986 Environmental Protection has specified a later day, in writing, the
987 eligible party shall submit to the Commissioner of Energy and
988 Environmental Protection documentation, approved in writing by a
989 licensed environmental professional and in a form prescribed by the
990 Commissioner of Energy and Environmental Protection, that the
991 investigation of the property has been completed in accordance with
992 prevailing standards and guidelines. Not later than three years after
993 the first installment due date, including any extension thereof by the
994 commissioner, of the fee required pursuant to subsection (g) of this
995 section, unless the Commissioner of Energy and Environmental
996 Protection has specified a later day, in writing, the eligible party shall
997 notify the Commissioner of Energy and Environmental Protection and
998 the commissioner in a form prescribed by the Commissioner of Energy
999 and Environmental Protection that the remediation has been initiated,
1000 and shall submit to the Commissioner of Energy and Environmental
1001 Protection a remedial action plan, approved in writing by a licensed
1002 environmental professional in a form prescribed by the Commissioner
1003 of Energy and Environmental Protection. Not later than eight years
1004 after the first installment due date, including any extension thereof by
1005 the commissioner, of the fee required pursuant to subsection (g) of this
1006 section, unless the Commissioner of Energy and Environmental
1007 Protection has specified a later day, in writing, the eligible party shall
1008 complete remediation of the property and submit the remedial action
1009 report and verification or interim verification to the Commissioner of

1010 Energy and Environmental Protection and the commissioner. The
1011 Commissioner of Energy and Environmental Protection shall grant a
1012 reasonable extension if the eligible party demonstrates to the
1013 satisfaction of the Commissioner of Energy and Environmental
1014 Protection that: (i) Such eligible party has made reasonable progress
1015 toward investigation and remediation of the eligible property; and (ii)
1016 despite best efforts, circumstances beyond the control of the eligible
1017 party have significantly delayed the remediation of the eligible
1018 property.

1019 (3) The eligible party may complete the investigation and
1020 remediation of a portion of the eligible property and submit a
1021 verification or an interim verification for such portion to the
1022 Commissioner of Energy and Environmental Protection and the
1023 commissioner, provided the eligible party (A) is in compliance with
1024 the provisions of this section and the brownfield investigation plan
1025 and remediation schedule, and (B) has, prior to submitting such
1026 verification or interim verification for such portion: (i) Timely
1027 submitted documentation to the Commissioner of Energy and
1028 Environmental Protection that the investigation of the entire property
1029 is complete in accordance with prevailing standards and guidelines, in
1030 accordance with subdivision (2) of this subsection, (ii) timely notified
1031 the Commissioner of Energy and Environmental Protection that the
1032 remediation was initiated and submitted to said commissioner a
1033 remedial action plan for the entire property originally accepted into
1034 the brownfield remediation and revitalization program, in accordance
1035 with subdivision (2) of this subsection, and (iii) demonstrated to the
1036 satisfaction of the Commissioner of Energy and Environmental
1037 Protection and the commissioner that it will complete the remediation
1038 of the remainder of the eligible property in accordance with the
1039 remediation schedule. For any verification or interim verification of a
1040 portion of the eligible property, the remediation of releases on and
1041 from such portion shall extend to the boundaries of the eligible
1042 property as a whole.

1043 [(3)] (4) An eligible party who submits an interim verification for an

1044 eligible property or a portion of an eligible property, and any
1045 subsequent owner of such eligible property, shall, until the
1046 remediation standards for groundwater are achieved, (A) operate and
1047 maintain the long-term remedy for groundwater in accordance with
1048 the remedial action plan, the interim verification and any approvals
1049 issued by the Commissioner of Energy and Environmental Protection,
1050 (B) prevent exposure to any groundwater plume containing a
1051 regulated substance in excess of the remediation standards on the
1052 property, (C) take all reasonable action to contain any groundwater
1053 plume on the property, and (D) submit annual status reports to the
1054 Commissioner of Energy and Environmental Protection and the
1055 commissioner.

1056 [(4)] (5) Before commencement of remedial action pursuant to the
1057 plan and schedule, the eligible party shall: (A) Publish notice of the
1058 remedial action in a newspaper having a substantial circulation in the
1059 town where the property is located, (B) notify the director of health of
1060 the municipality where the property is located, and (C) either (i) erect
1061 and maintain for at least thirty days in a legible condition a sign not
1062 less than six feet by four feet on the property, which shall be clearly
1063 visible from the public highway and shall include the words
1064 "ENVIRONMENTAL CLEAN-UP IN PROGRESS AT THIS SITE. FOR
1065 FURTHER INFORMATION CONTACT:" and include a telephone
1066 number for an office from which any interested person may obtain
1067 additional information about the remedial action, or (ii) mail notice of
1068 the remedial action to each owner of record of property which abuts
1069 such property, at the address on the last-completed grand list of the
1070 relevant town. Public comments shall be directed to the eligible party
1071 for a thirty-day period starting with the last provided public notice
1072 provision and such eligible party shall provide all comments and any
1073 responses to the Commissioner of Energy and Environmental
1074 Protection prior to commencing remedial action.

1075 [(5)] (6) The remedial action shall be conducted under the
1076 supervision of a licensed environmental professional and the remedial
1077 action report shall be submitted to the commissioner and the

1078 Commissioner of Energy and Environmental Protection signed and
1079 stamped by a licensed environmental professional. In such report, the
1080 licensed environmental professional shall include a detailed
1081 description of the remedial actions taken and issue a verification or
1082 interim verification for the eligible property or a portion of the eligible
1083 property, in which he or she shall render an opinion, in accordance
1084 with the standard of care provided in subsection (c) of section 22a-
1085 133w and the regulations adopted pursuant to subsection (c) of section
1086 22a-133v, that the action taken to contain, remove or mitigate the
1087 release of regulated substances within the boundaries of such property
1088 is in accordance with the remediation standards.

1089 [(6) All] (7) Copies of all applications for permits required to
1090 implement such plan and schedule in this section shall be submitted to
1091 the permit ombudsman within the Department of Economic and
1092 Community Development.

1093 [(7)] (8) Each eligible party participating in the brownfield
1094 remediation and revitalization program shall maintain all records
1095 related to its implementation of such plan and schedule and
1096 completion of the remedial action of the property for a period of not
1097 less than ten years and shall make such records available to the
1098 commissioner or the Commissioner of Energy and Environmental
1099 Protection at any time upon request by either.

1100 [(8)] (9) (A) Not later than sixty days after receiving a remedial
1101 action report signed and stamped by a licensed environmental
1102 professional and a verification or interim verification for the eligible
1103 property or a portion of the eligible property, the Commissioner of
1104 Energy and Environmental Protection shall notify the eligible party
1105 and the commissioner whether the Commissioner of Energy and
1106 Environmental Protection will conduct an audit of such remedial
1107 action. Any such audit shall be conducted not later than one hundred
1108 eighty days after the Commissioner of Energy and Environmental
1109 Protection receives [a] such remedial action report [signed and
1110 stamped by a licensed environmental professional and a] and

1111 verification or interim verification, plus any additional time permitted
1112 pursuant to subparagraph (B) of this subdivision, except as provided
1113 in subparagraph (C) of this subdivision. Not later than fourteen days
1114 after completion of an audit, the Commissioner of Energy and
1115 Environmental Protection shall send written audit findings to the
1116 eligible party, the commissioner and the licensed environmental
1117 professional. The audit findings may approve or disapprove the
1118 report, provided any disapproval shall set forth the reasons for such
1119 disapproval.

1120 (B) The Commissioner of Energy and Environmental Protection may
1121 request additional information during an audit conducted pursuant to
1122 this subdivision. If such information has not been provided to said
1123 commissioner within fourteen days of such request, the time frame for
1124 said commissioner to complete the audit shall be suspended until the
1125 information is provided to said commissioner. The Commissioner of
1126 Energy and Environmental Protection may choose to conduct such
1127 audit if and when the eligible party fails to provide a response to said
1128 commissioner's request for additional information within sixty days.

1129 (C) The Commissioner of Energy and Environmental Protection
1130 shall not conduct an audit of a verification or interim verification for
1131 the eligible property or a portion of the eligible property pursuant to
1132 this subdivision after one hundred eighty days from receipt of such
1133 verification, plus any additional time permitted pursuant to
1134 subparagraph (B) of this subdivision, unless (i) said commissioner has
1135 reason to believe that a verification was obtained through the
1136 submittal of materially inaccurate or erroneous information, or
1137 otherwise misleading information material to the verification or that
1138 material misrepresentations were made in connection with the
1139 submittal of the verification, (ii) any post-verification monitoring or
1140 operations and maintenance is required as part of a verification and
1141 has not been done, (iii) a verification that relies upon an environmental
1142 land use restriction was not recorded on the land records of the
1143 municipality in which such land is located in accordance with section
1144 22a-133o and applicable regulations, (iv) said commissioner

1145 determines that there has been a violation of law material to the
1146 verification, or (v) said commissioner determines that information
1147 exists indicating that the remediation may have failed to prevent a
1148 substantial threat to public health or the environment for releases on
1149 the property.

1150 (k) Not later than sixty days after receiving a notice of disapproval
1151 [or] of a verification or interim verification for the eligible property or a
1152 portion of the eligible property from the Commissioner of Energy and
1153 Environmental Protection, the eligible party shall submit to said
1154 commissioner and to the commissioner a report of cure of noted
1155 deficiencies. Within sixty days after receiving such report of cure of
1156 noted deficiencies by said commissioner, said commissioner shall issue
1157 a successful audit closure letter or a written disapproval of such report
1158 of cure of noted deficiencies.

1159 (l) Before approving a verification or interim verification for the
1160 eligible property or a portion of the eligible property, the
1161 Commissioner of Energy and Environmental Protection may enter into
1162 a memorandum of understanding with the eligible party with regard
1163 to any further remedial action or monitoring activities on or at such
1164 property that said commissioner deems necessary for the protection of
1165 human health or the environment.

1166 (m) (1) An eligible party who has been accepted into the brownfield
1167 remediation and revitalization program shall have no obligation as
1168 part of its plan and schedule to characterize, abate and remediate any
1169 [plume] release of a regulated substance outside the boundaries of the
1170 [subject] eligible property originally accepted into the brownfield
1171 remediation and revitalization program, provided the notification
1172 requirements of section 22a-6u pertaining to significant environmental
1173 hazards shall continue to apply to the property and the eligible party
1174 shall not be required to characterize, abate or remediate any such
1175 significant environmental hazard outside the boundaries of the subject
1176 property unless such significant environmental hazard arises from the
1177 actions of the eligible party after its acquisition of or control over the

1178 property from which such significant environmental hazard has
1179 emanated outside its own boundaries. If an eligible party who has
1180 been accepted into the brownfield remediation and revitalization
1181 program conveys or otherwise transfers its ownership of the subject
1182 property and such eligible party is in compliance with the provisions
1183 of this section and the brownfield investigation plan and remediation
1184 schedule at the time of conveyance or transfer of ownership, the
1185 provisions of this section shall apply to such transferee, if such
1186 transferee meets the eligibility criteria set forth in this section, [pays
1187 the] complies with the obligations undertaken by the eligible party
1188 under this section, and timely pays the greater of: (A) Any fee required
1189 by subsection (g) or (h) of this section [and complies with all the
1190 obligations undertaken by the eligible party under this section] not yet
1191 paid by such eligible party, or (B) a fee of ten thousand dollars. In such
1192 case, all references to applicant or eligible party shall mean the
1193 subsequent owner or transferee.

1194 (2) After the Commissioner of Energy and Environmental Protection
1195 issues either a no audit letter or a successful audit closure letter, or no
1196 audit decision has been made by said commissioner within one
1197 hundred eighty days, plus any additional time permitted pursuant to
1198 subparagraph (B) of subdivision (9) of subsection (j) of this section,
1199 after the submittal of the remedial action report and verification or
1200 interim verification, for the eligible property or a portion of the eligible
1201 property, such eligible party shall not be liable to the state or any
1202 person for (A) costs incurred in the remediation of, equitable relief
1203 relating to, or damages resulting from the release of regulated
1204 substances addressed in [the brownfield investigation plan and
1205 remediation schedule] such verification or interim verification, and (B)
1206 historical [off-site] impacts off the eligible property as a whole,
1207 including air deposition, waste disposal, impacts to sediments and
1208 natural resource damages. No eligible party shall be afforded any relief
1209 from liability such eligible party may have from a release requiring
1210 action pursuant to the PCB regulations or a release requiring action
1211 pursuant to the UST regulations.

1212 (3) The provisions of this section concerning liability shall extend to
1213 any person who acquires title to all or part of the property for which a
1214 remedial action report and verification or interim verification have
1215 been submitted pursuant to this section, provided (A) there is payment
1216 of a fee of ten thousand dollars to said commissioner for each such
1217 extension, (B) such person acquiring all or part of the property meets
1218 the criteria of this section, and (C) the Commissioner of Energy and
1219 Environmental Protection has issued either a successful audit closure
1220 letter or no audit letter, or no audit decision has been made by said
1221 commissioner not later than one hundred eighty days, plus any
1222 additional time permitted pursuant to subparagraph (B) of subdivision
1223 (9) of subsection (j) of this section, after the submittal of the remedial
1224 action report and verification or interim verification. No municipality
1225 or economic development agency that acquires title to all or part of the
1226 property shall be required to pay a fee, provided the municipality or
1227 economic development agency shall collect and pay the fee upon
1228 transfer of the property to another person for purposes of
1229 development. Such fee shall be deposited into the Special
1230 Contaminated Property Remediation and Insurance Fund established
1231 under section 22a-133t and such funds shall be for the exclusive use by
1232 the Department of Energy and Environmental Protection.

1233 (4) Neither a successful audit closure nor no audit letter issued
1234 pursuant to this section, nor the expiration of one hundred eighty
1235 days, plus any additional time permitted pursuant to subparagraph (B)
1236 of subdivision (9) of subsection (j) of this section, after the submittal of
1237 the remedial action report and verification or interim verification
1238 without an audit decision by the Commissioner of Energy and
1239 Environmental Protection, shall preclude said commissioner from
1240 taking any appropriate action, including, but not limited to, any action
1241 to require remediation of the property by the eligible party or, as
1242 applicable, to its successor, if said commissioner determines that:

1243 (A) The successful audit closure, no audit letter, or the expiration of
1244 one hundred eighty days, plus any additional time permitted pursuant
1245 to subparagraph (B) of subdivision (9) of subsection (j) of this section,

1246 after the submittal of the remedial action report and verification or
1247 interim verification without an audit decision by the Commissioner of
1248 Energy and Environmental Protection was based on information
1249 provided by the person submitting such remedial action report and
1250 verification or interim verification that the Commissioner of Energy
1251 and Environmental Protection can show that such person knew, or had
1252 reason to know, was false or misleading, and, in the case of the
1253 successor to an applicant, that such successor was aware or had reason
1254 to know that such information was false or misleading;

1255 (B) New information confirms the existence of previously unknown
1256 contamination that resulted from a release that occurred before the
1257 date that an application has been accepted into the brownfield
1258 remediation and revitalization program;

1259 (C) The eligible party who received the successful audit closure or
1260 no audit letter or where one hundred eighty days, plus any additional
1261 time permitted pursuant to subparagraph (B) of subdivision (9) of
1262 subsection (j) of this section, lapsed without an audit decision by the
1263 Commissioner of Energy and Environmental Protection has materially
1264 failed to complete the remedial action required by the brownfield
1265 investigation plan and remediation schedule or to carry out or comply
1266 with monitoring, maintenance or operating requirements pertinent to a
1267 remedial action including the requirements of any environmental land
1268 use restriction; or

1269 (D) The threat to human health or the environment is increased
1270 beyond an acceptable level due to substantial changes in exposure
1271 conditions at such property, including, but not limited to, a change
1272 from nonresidential to residential use of such property.

1273 (5) If an eligible party who has been accepted into the brownfield
1274 remediation and revitalization program conveys or otherwise transfers
1275 all or part of its ownership interest in the subject property at any time
1276 before the issuance of a successful audit closure or no audit letter or
1277 the expiration of one hundred eighty days, plus any additional time
1278 permitted pursuant to subparagraph (B) of subdivision (9) of

1279 subsection (j) of this section, after the submittal of the remedial action
1280 report and verification or interim verification without an audit
1281 decision by the Commissioner of Energy and Environmental
1282 Protection, the eligible party conveying or otherwise transferring its
1283 ownership interest shall not be liable to the state or any person, for the
1284 portion of the property transferred, for (A) costs incurred in the
1285 remediation of, equitable relief relating to, or damages resulting from
1286 the release of regulated substances addressed in the brownfield
1287 investigation plan and remediation schedule, and (B) historical [off-
1288 site] impacts off the eligible property as a whole, including air
1289 deposition, waste disposal, impacts to sediments and natural resource
1290 damages, provided the eligible party complied with its obligations
1291 under this section during the period when the eligible party held an
1292 ownership interest in the subject property. Nothing in this subsection
1293 shall provide any relief from liability such eligible party may have
1294 related to a release requiring action pursuant to the PCB regulations, or
1295 a release requiring action pursuant to the UST regulations.

1296 (6) Upon the Commissioner of Energy and Environmental
1297 Protection's issuance of a successful audit closure letter [.] or no audit
1298 letter for the entire eligible property originally accepted into the
1299 brownfield remediation and revitalization program, or after one
1300 hundred eighty days, plus any additional time permitted pursuant to
1301 subparagraph (B) of subdivision (9) of subsection (j) of this section,
1302 have passed since the submittal of a verification or interim verification
1303 and said commissioner has not audited the verification or interim
1304 verification, the immediate prior owner regardless of its own eligibility
1305 to participate in the comprehensive brownfield remediation and
1306 revitalization program shall have no liability to the state or any person
1307 for any future investigation and remediation of the release of any
1308 regulated substance at the eligible property addressed in the
1309 verification or interim verification, provided the immediate prior
1310 owner has complied with any legal obligation such owner had with
1311 respect to investigation and remediation of releases at and from the
1312 property, and provided further the immediate prior owner shall retain
1313 any and all liability such immediate prior owner would otherwise

1314 have for the investigation and remediation of the release of any
1315 regulated substance beyond the boundary of the eligible property. In
1316 any event, the immediate prior owner shall remain liable for (A)
1317 penalties or fines, if any, relating to the release of any regulated
1318 substance at or from the eligible property, (B) costs and expenses, if
1319 any, recoverable or reimbursable pursuant to sections 22a-134b, 22a-
1320 451 and 22a-452, and (C) obligations of the immediate prior owner as a
1321 certifying party on a Form III or IV submitted pursuant to sections 22a-
1322 134 to 22a-134e, inclusive, as amended by this act.

1323 (n) A person whose application to the brownfield remediation and
1324 revitalization program has been accepted by the commissioner or any
1325 subsequent eligible party whose application to the brownfield
1326 remediation and revitalization program has been accepted by the
1327 commissioner shall be exempt for filing as an establishment pursuant
1328 to sections 22a-134a to 22a-134d, inclusive, if such real property or
1329 prior business operations constitute an establishment. Nothing in this
1330 section shall be construed to alter any existing legal requirement
1331 applicable to any certifying party at a property under sections 22a-134
1332 and 22a-134a to 22a-134e, inclusive, as amended by this act.

1333 (o) Notwithstanding the provisions of this section, eligible parties
1334 shall investigate and remediate, and remain subject to all applicable
1335 statutes and requirements, the extent of any new release that occurs
1336 during their ownership of the property.

1337 Sec. 15. Subsection (b) of section 22a-2 of the general statutes is
1338 repealed and the following is substituted in lieu thereof (*Effective July*
1339 *1, 2017*):

1340 (b) As used in this chapter, and chapters 263, 268, 348, 360, 440,
1341 446d, 446i, 446k, 447, 448, 449, 452, 462, 474, 476, 477, 478, 479, 490 and
1342 495, except where otherwise provided, "person" means any individual,
1343 firm, partnership, association, syndicate, company, trust, corporation,
1344 nonstock corporation, limited liability company, municipality, agency
1345 or political or administrative subdivision of the state, or other legal
1346 entity of any kind.

1347 Sec. 16. Subdivision (8) of section 22a-115 of the general statutes is
 1348 repealed and the following is substituted in lieu thereof (*Effective July*
 1349 *1, 2017*):

1350 (8) "Person" means any individual, corporation, nonstock
 1351 corporation, limited liability company, joint venture, public benefit
 1352 corporation, partnership, association, trust or estate, the state and its
 1353 agencies and political subdivisions, the federal government and its
 1354 agencies, and any other entity, public or private, however organized;

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2017</i>	32-760
Sec. 2	<i>July 1, 2017</i>	New section
Sec. 3	<i>July 1, 2017</i>	New section
Sec. 4	<i>July 1, 2017</i>	New section
Sec. 5	<i>July 1, 2017</i>	New section
Sec. 6	<i>July 1, 2017</i>	New section
Sec. 7	<i>July 1, 2017</i>	12-81r(a)
Sec. 8	<i>July 1, 2017</i>	22a-133dd
Sec. 9	<i>July 1, 2017</i>	22a-133ii(a)
Sec. 10	<i>July 1, 2017</i>	22a-134(1)
Sec. 11	<i>July 1, 2017</i>	22a-134
Sec. 12	<i>July 1, 2017</i>	32-763
Sec. 13	<i>July 1, 2017</i>	32-768(c) and (d)
Sec. 14	<i>July 1, 2017</i>	32-769
Sec. 15	<i>July 1, 2017</i>	22a-2(b)
Sec. 16	<i>July 1, 2017</i>	22a-115(8)

Statement of Legislative Commissioners:

In Subdivs. (2) to (6), inclusive, of Subsec. (m) of Section 14, "subdivision (8) of subsection (j)" was changed to "subdivision (9) of subsection (j)" for accuracy.

CE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 18 \$	FY 19 \$
Treasurer, Debt Serv.	GF - Acceleration of Debt Service Costs	Potential	Potential
Department of Revenue Services	Various - Potential Revenue Loss	See Below	See Below

Note: GF=General Fund; Various=Various

Municipal Impact:

Municipalities	Effect	FY 18 \$	FY 19 \$
Various Municipalities	Grand List Reduction/ Revenue Loss	None	Potential

Explanation

The bill allows the creation of Connecticut Brownfield Land Banks (CBLBs) for the purpose of remediating brownfields which results in the state and municipal impacts listed below.

DECD Brownfield Grant Program

The bill extends eligibility for grants under the Department of Economic and Community Development's (DECD) Brownfield Remedial Action and Redevelopment Municipal Grant Program ("program"). The bill however does not change General Obligation (GO) bond authorizations for the purposes of funding CBLBs.

DECD's program is funded by GO bond funds and currently available only to municipalities and local economic development agencies. Future General Fund debt service costs may be incurred sooner under the bill to the degree that the bill causes authorized GO bond funds to be expended more rapidly than they otherwise would have been.

As of April 5th, the unallocated balance available to DECD's brownfields program is \$18.925 million.

State Revenue Impact

The bill exempts CBLBs from paying state taxes on revenue they receive, acquire, transfer, or used by a CBLB. The bill does not explicitly enumerate from which state taxes the CBLBs are exempt, so it is presumably all state taxes.

To the extent that CBLBs derive revenue that otherwise would be taxable (e.g. real estate conveyance tax on properties acquired), there may be a revenue loss to the state. The actual impact is uncertain and would be dependent upon (1) the number of CBLBs created and (2) the level of business activity by any given CBLB that would otherwise be taxable.

The bill makes other changes that are not anticipated to result in a state fiscal impact.

Municipal Impact

The bill exempts CBLBs from property taxes. In a municipality that has land purchased by a CBLB, this results in a grand list reduction, which will result in a loss of property tax revenue given a constant mill rate.

The bill also allows municipalities to forgive delinquent property taxes owed on property purchased by CBLBs. This results in an additional revenue loss, to the extent that municipalities choose to do this.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 7229*****AN ACT CONCERNING THE CREATION OF CONNECTICUT BROWNFIELD LAND BANKS, REVISIONS TO THE BROWNFIELD REMEDIATION AND REVITALIZATION PROGRAM AND AUTHORIZING BONDS OF THE STATE FOR BROWNFIELD REMEDIATION AND DEVELOPMENT PROGRAMS.*****SUMMARY**

This bill establishes a framework for organizing and operating local nonprofit land banks to acquire and remediate brownfields and sell the remediated property for redevelopment. As part of that framework, these Connecticut Brownfield Land Banks (CBLBs) may access the same brownfield remediation tools and incentives available to municipalities. To do so, a CBLB must first (1) be certified as meeting the bill's requirements by the Department of Economic and Community Development (DECD) and (2) enter into a land banking agreement with one or more municipalities.

The bill makes it easier to access the benefits of DECD's Brownfield Remediation and Revitalization Program and makes several other administrative and conforming changes. It allows developers to remediate a brownfield a section at a time and be protected from liability to the state and third parties with respect to that section instead of having to remediate the entire brownfield before receiving any liability protection. The bill also protects lenders from liability when they hold a mortgage or other security interest in a brownfield that is being remediated under the program.

EFFECTIVE DATE: July 1, 2017

§§ 1-13 — CONNECTICUT BROWNFIELD LAND BANKS**Overview**

The bill establishes a process for certifying nonprofit organizations as CBLBs. An organization seeking CBLB certification must apply to DECD, and once certified, may:

1. acquire, retain, and remediate brownfields and sell the remediated property for a municipality's benefit;
2. educate government officials, community leaders, economic development agencies, and nonprofit organizations on brownfield redevelopment best practices; and
3. engage in other activities the act authorizes.

§§ 1 & 2 — Applying for and Maintaining Certification

A nonprofit organization applying for CBLB certification must do so on DECD-prescribed forms and provide:

1. its certificate of incorporation and bylaws,
2. a list of its current officers and a copy of its bylaws,
3. the proposed land banking agreement with one or more municipalities,
4. proof that it has the financial and technical capacity to fulfill the purposes of a CBLB,
5. its proposed business plan, and
6. any other information the commissioner requires.

In deciding whether to approve or reject a complete application, the commissioner must consider:

1. whether the applicant has the financial and technical wherewithal to fulfill the purposes of a CBLB,
2. the relative economic conditions of the municipalities the organization proposes to serve,

3. the degree to which these municipalities support the organization's certification,
4. the quality of the CBLB's business plan, and
5. any other criteria the commissioner establishes.

If the commissioner approves the application, she must issue a certificate granting the organization all the rights, privileges, and immunities the bill grants certified CBLBs.

Certified CBLBs must submit a report to the commissioner annually, by January 31, that describes their activities for the previous year, including:

1. the CBLB's updated business plan and a list of current officers and directors,
2. the CBLB's complete operating and financial statements,
3. copies of any land banking agreements the CBLB entered into during the preceding year, and
4. any other information the commissioner requests.

The commissioner must review the report to determine if it includes the required information. If it does not, she must notify the CBLB's officers by mail that she will decertify the organization 120 days after the mailing date unless the CBLB submits a revised report that she determines provides the required information. The commissioner may extend the 120-day deadline by an additional 60 days.

If the commissioner decertifies the CBLB, it cannot enter into any new land banking agreements, but continues to (1) enjoy its rights and (2) remains bound by its obligations, with respect to any property it acquired under a land banking agreement it executed before it was decertified. A decertified CBLB may reapply for certification.

§ 3 — CBLB Directors and Officers

CBLBs must exercise their powers through their boards of directors, which must consist of between five and 11 members, each with knowledge and expertise in the land bank's purposes and activities. The board must elect from its members the board's chairperson and any other officers it deems necessary. It may establish committees and subcommittees and adopt bylaws and procedures needed to perform its functions.

Members serve without compensation, but are entitled to reimbursement for the actual and necessary expenses they incur while performing their official duties. The members are not personally liable for CBLB's loans, other financial obligations, or environmental liabilities, nor are they subject to creditors' rights, which apply only against the CBLB.

Elected and appointed state and local officers may serve on CBLB boards, and their appointment neither terminates nor impairs their public duties. State and municipal employees also may serve on a board.

Board members may organize and reorganize a CBLB's executive, administrative, clerical, and other departments, and can specify the duties, powers, and compensation of the CBLB's employees, agents, and consultants.

§ 4 — CBLB's Purposes

The bill gives CBLBs broad contractual, financial, and development powers, except the power to take property by eminent domain. A CBLB may:

1. enter into land banking agreements with municipalities to acquire, retain, remediate, and sell land and buildings in those municipalities;
2. enter into contracts and agreements with municipalities to receive or provide staff support;

3. obtain grants or borrow money from private lenders, municipalities, and state and federal agencies to fund its operations;
4. secure the payment of some or all of its debt by procuring insurance or state and federal guarantees and making the necessary premium payments;
5. acquire property by purchase contracts, lease purchase agreements, installment sales contracts, land contracts, and foreclosure of municipal tax liens; and
6. do all things necessary to fulfill its purposes and comply with applicable laws.

The bill complements the CBLB's property acquisition powers by allowing municipalities to transfer or convey land and buildings and interests in them to a CBLB. A municipality may do this regardless of any conflicting statute, special act, charter, or home rule ordinance. The CBLB may accept property from the municipality according to the terms and conditions specified in their land banking agreement. The CBLB may also convey the property as its procedures allow.

§ 5 — Tax Exemption

CBLBs must exercise their powers to benefit state residents, specifically to increase their commerce, wealth, and prosperity. Consequently, the act deems the exercise of these powers an essential public function and exempts CBLBs from paying state and local taxes and assessments on (1) the revenue or property they receive, acquire, transfer, or use and (2) any income derived from these sources.

§ 6 — Specified Land Acquisition and Disposition Powers

A CBLB may acquire only brownfields and adjacent or nearby property identified in the land banking agreement between it and the municipality where the property is located. It must hold this property in its own name regardless of the entity that transferred it. The CBLB must also maintain an inventory of all the real property it acquires and

allow the public to review and inspect it.

The CBLB must adopt policies and procedures specifying the terms and conditions for acquiring real property or property interests. Those terms and conditions may allow for different types of compensation, including: (1) monetary payments; (2) secured financial obligations, covenants, or conditions related to the property's current or future use; (3) contractual commitments imposed on the party transferring the property; and (4) other forms the CBLB's directors determine are in the CBLB's best interest.

The CBLB may also dispose of property it acquires as its land banking agreements allow. It can convey, exchange, sell, transfer, lease as lessee, grant, release, demise, and pledge as collateral any and all interests in, on, or to the property as long as the municipality where the property is located approves the transaction, as specified in the land banking agreement.

§§ 7-13 — CBLBs' Access to Brownfield Remediation Tools and Incentives

The bill allows CBLBs to access the same brownfield remediation tools and incentives available to municipalities.

Local Option Property Tax Abatement (CGS § 12-81r). The bill allows municipalities to forgive all or a portion of the principal and interest due on delinquent property taxes for a property the CBLB acquires or plans to acquire in the municipality. Current law allows them to:

1. forgive the delinquent taxes on a property for a party that intends to acquire, investigate, and remediate it according to state standards;
2. abate the property taxes for up to seven years on a property whose owner agrees to remediate it according to state standards; and
3. tax a remediated property for up to seven years based on its pre-

remediation fair market value.

Conducting Environmental Site Assessments (CGS § 22a-133dd). The law sets conditions under which a municipality, or a licensed environmental professional (LEP) it employs, may enter a property, without liability, to assess or investigate it. The bill sets similar conditions under which a CBLB or an LEP it employs may enter a property it controls for the same purposes.

The CBLB or its LEP may enter the property subject to a land banking agreement between the CBLB and the municipality if:

1. the land banking agreement requires it to be investigated and assessed and the municipality is authorized to enter the property or
2. the property's owner and the municipality or CBLB enter into a voluntary agreement allowing the property's environmental condition to be investigated or assessed.

As with municipalities, the CBLB or its LEP is not protected from liability for gross negligence or intentional misconduct. The CBLB or the LEP must, like municipalities, give the property owner 45-days notice before entering the property.

Department of Energy and Environmental Protection (DEEP) Liability Relief Program (CGS § 22a-133ii). The bill makes CBLBs eligible to participate in DEEP's liability relief program, which, under current law, is open only to municipalities, economic development agencies, municipally-formed nonprofit economic development corporations, and nonstock or limited liability companies municipalities or these corporations form and control. The program protects these entities from liability for contamination that occurred before they acquired the property.

Transfer Act Exemptions (CGS § 22a-134). Under the bill, properties municipalities convey to CBLBs are exempt from the transfer act, which requires parties to a real estate transaction

involving contaminated property to notify DEEP about the contamination and identify the party that will investigate and remediate it. The law already exempts property that municipalities foreclosed on and subsequently conveyed, remediated under DECD's municipal brownfield grant program (CGS § 32-376), or acquired by eminent domain.

The bill also sets conditions that exempt from the transfer act a property that a CBLB remediates and subsequently transfers. The transfer is exempt if the property was remediated under a DEEP or DECD liability relief program, is still compliant with that program when the transfer occurs, and was not used to generate hazardous waste after entering the program.

Remedial Action and Redevelopment Municipal Grant Program (CGS § 32-763). The bill makes CBLBs eligible for DECD remedial action and redevelopment grants, which are currently available only to municipalities and local economic development agencies. The grants are for investigating, assessing, and cleaning up contaminated properties.

Abandoned Brownfield Cleanup Program (CGS § 32-768). The bill allows CBLBs to request the DECD commissioner to determine if a property is eligible for the program's benefits regardless of the property's current owner. As such, CBLBs can recommend property regardless of whether they own it. It also exempts them from having to meet the program's responsible party criteria (i.e., the party that contaminated the property cannot be determined, no longer exists, or is unable to remediate it).

The program exempts participants from investigating and remediating contamination that emanated from the property before they acquired it and limits their liability to the state or third parties for the contamination as long as they did not cause or contribute to the contamination or negligently or recklessly exacerbate it.

§ 14 — BROWNFIELD REMEDIATION AND REVITALIZATION PROGRAM***Liability Protection for Remediated Portions of a Property (CGS § 32-769(j)(3))***

The bill makes it easier for developers to remediate and develop a brownfield in sections. It does so by allowing them to remediate a section of the brownfield and receive the program's liability protection for that section instead of waiting until they remediate the entire brownfield, as current law requires.

To receive liability protection for a remediated section, a developer must submit to the DECD and Department of Energy and Environmental Protection (DEEP) commissioners the required documents verifying a brownfield's remediation. That is, the developer must submit a report indicating that the section was (1) investigated and remediated according to state standards (i.e., verification) or (2) investigated and remediated according to those standards except for contaminated groundwater, which is being remediated under a long-term remedy (i.e., interim verification). The bill specifies that, in both cases, the remediation must address hazardous substances that extend out from the section to the brownfield's boundaries.

Besides submitting the required verification or interim verification report, the developer must have complied with the law's requirements for preparing, submitting, and implementing the statutorily required investigation plan and remediation schedule. Specifically, the developer must have notified the DEEP commissioner that the following tasks were completed on time:

1. the entire property was investigated according to the prevailing standards and guidelines for conducting such investigations within two years after the developer paid the first installment of the program's application fee,
2. the remediation plan for the entire brownfield had been submitted to the commissioner, and

3. the remediation work began within three years after paying the first installment.

Lastly, the developer must demonstrate to the commissioners' satisfaction that the entire property will be remediated on time.

Liability Protection for Lenders (CGS § 32-769 (i) (2))

The bill extends the program's liability protections to lenders that hold or held a security interest in a property a developer remediated under the program. A lender receives these protections if it:

1. was not cited for polluting the state's waters;
2. did not contaminate the property or create the source that did; and
3. is not affiliated with any person that contaminated the property or contamination source through any direct or indirect familial relationship or any contractual, corporate, or financial relationship other than holding the security interest.

Off-Site Releases (CGS § 32-769(m)(1))

The bill specifies that developers remediating brownfields under the program do not have to investigate and remediate any hazardous substance, including plumes, beyond the boundaries of the brownfield. Current law exempts them from investigating and remediating only plumes, which are volumes of contaminated groundwater that extend downward and outward from a specific source.

Fee Changes (CGS § 32-769(m)(1))

The bill changes the fees that must be paid before the program's liability protections can be extended to a party that acquires a property (i.e., transferee) while it is being remediated under the program. Under current law, the transferee must pay the same fee as the property's initial owner. The bill instead requires the transferee to pay a \$10,000 fee or the balance of any unpaid fee, whichever is greater.

LEP Verification (CGS § 32-769(j)(6))

The bill requires the LEP a developer retains to supervise the brownfield's remediation to state in the remedial action report that he or she supervised the remediation and prepared the verification or interim verification report in compliance with the professional ethics and code of conduct for LEPs, as specified in DEEP regulations (CGS § 22a-133v(c)).

DEEP Audit Deadline (CGS § 32-769 (j) (9))

The bill adjusts the deadline for the DEEP commissioner to audit a verification or interim verification report. If the commissioner decides to audit the verification, the law gives him up to 180 days to complete it. But the 180-day period stops if the commissioner requests additional information and the developer fails to provide it within 14 days of the commissioner's request. The commissioner may restart the audit within 60 days of his request if the developer fails to provide the requested information. In these cases, the bill extends the 180-day deadline by the number of days during which the audit was suspended.

COMMITTEE ACTION

Commerce Committee

Joint Favorable Substitute

Yea 20 Nay 1 (03/21/2017)